

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JASON C. WILLIAMS, individually, and on)
behalf of all other similarly situated,)
Plaintiffs,)
vs.) Case No. 4:15-cv-1469
TGI FRIDAY'S INC.,)
Defendant.)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant TGI Friday's Inc. removes this action from the Circuit Court of St. Louis County, Missouri to the Eastern Division of the United States District Court for the Eastern District of Missouri. In support of this removal, Defendant states as follows.

JURISDICTIONAL STATEMENT

1. Plaintiff Jason C. Williams commenced this action by filing a Petition styled *Williams v. TGI Friday's Inc.*, No. 15SL-CC02736 (Cir. Ct. of St. Louis Cty., Mo.). *See* Ex. A.
2. Plaintiff's Petition asserts a claim under the federal Telephone Consumer Protection Act, 47 U.S.C. 227. *See id.* ¶¶ 21-44.
3. Because Plaintiff's claim arises under federal law, this Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331. *See Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744-45, 753 (2012) ("Beyond doubt, the TCPA is a federal law that both creates the claim Mims has brought and supplies the substantive rules that will govern the case.... Nothing in the text, structure, purpose, or legislative history of the TCPA calls for displacement of the federal-question jurisdiction U.S. district courts ordinarily have under 28

U.S.C. § 1331. In the absence of direction from Congress stronger than any Arrow has advanced, we apply the familiar default rule: Federal courts have § 1331 jurisdiction over claims that arise under federal law.”); *accord Heller v. HRB Tax Group*, No. 11-1121, 2012 U.S. Dist. LEXIS 6167, at *4 (E.D. Mo. Jan. 19, 2012) (denying motion to remand removed TCPA action); *Nack v. Walburg*, No. 10-0478, 2011 U.S. Dist. LEXIS 8266, at *10 n.2 (E.D. Mo. Jan. 28, 2011) (“All federal courts of appeals that have considered the question have concluded that federal district courts have federal-question jurisdiction over claims under the TCPA....”).

4. Because this Court has original subject matter jurisdiction over this action, Defendant may remove this action pursuant to 28 U.S.C. §§ 1441(a) and 1446.

PROCEDURAL STATEMENT

5. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81-2.03, copies of the Petition and any other process, pleadings and orders that Plaintiff purportedly served on Defendant as of the date of this Notice of Removal are attached collectively as Exhibit A.

6. Pursuant to 28 U.S.C. § 1446(b) and Federal Rule of Civil Procedure 6, Defendant has timely filed this Notice of Removal within thirty (30) days of service because Plaintiff purported to serve the Petition on Defendant on or after August 26, 2015. *See, e.g., Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

7. Pursuant to 28 U.S.C. § 1446(b)(2)(A), the only Defendant that has been named and purportedly served with the Petition consents to the removal of this action.

8. Pursuant to 28 U.S.C. § 1441(b)(2), Defendant may remove this action without regard to its citizenship because this Court has federal question jurisdiction under Section 1331, meaning the Court’s jurisdiction is not based “solely on … jurisdiction under Section 1332(a).”

9. Pursuant to 28 U.S.C. § 1441(a), removal to the Eastern Division of the United States District Court for the Eastern District of Missouri is proper because it embraces the Circuit Court of St. Louis County, Missouri, where this action was commenced. *See* 28 U.S.C. § 105.

10. Pursuant to 28 U.S.C. § 1446(d) and Local Rule 81-2.03, Defendant will promptly file a copy of this Notice of Removal in the Circuit Court of St. Louis County, Missouri, and give Plaintiff written notice of its filing.

11. Pursuant to Local Rules 81-2.02 and 81-2.03, Defendant has filed herewith an appropriate filing fee, a Civil Cover Sheet, an Original Filing Form, and a Disclosure of Corporate Interests Certificate.

12. By removing the action to this Court, Defendant does not waive any defenses that are available to it under state or federal law. Defendant expressly reserves the right to move to dismiss or for judgment pursuant to Federal Rules of Civil Procedure 12 and 56, and to strike or oppose the certification of any putative class pursuant to Federal Rule of Civil Procedure 23.

WHEREFORE, Defendant respectfully removes this action to the Eastern Division of the United States District Court for the Eastern District of Missouri pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

FOX GALVIN, LLC

By: /s/ John E. Galvin

John E. Galvin, #36249MO
Jeremy T. Staley, #66254MO
One S. Memorial Drive, 12th Floor
St. Louis, Missouri 63102
(314) 588-7000
(314) 588-1965 (Fax)
jgalvin@foxgalvin.com
jstaley@foxgalvin.com

Seamus C. Duffy
Michael W. McTigue Jr.
Michael P. Daly
Meredith R. Slawe
DRINKER BIDDLE & REATH LLP
One Logan Square, Ste. 2000
Philadelphia, PA 19103-6999
(215) 988.2700
(215) 988.2757 (Fax)
seamus.duffy@dbr.com
michael.mctigue@dbr.com
michael.daly@dbr.com
meredith.slawe@dbr.com

Attorneys for Defendant TGI Friday's Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served by U.S. mail and by e-filing through the Missouri Electronic Filing System this 24th day of September, 2015, which will send notification of such filing(s) to the following counsel of record:

Mr. David T. Butsch
Mr. Christopher E. Roberts
Butsch Roberts & Associates LLC
231 S. Bemiston Avenue, Suite 260
St. Louis, MO 63105
Butsch@ButschRoberts.com
Roberts@ButschRoberts.com

/s/ John E. Galvin